

LYNCHBURG CITY COUNCIL REPORT

Meeting Date: January 29, 2002

Council Report # 4

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Subject: \$3.2 million City revenue-backed loan guarantee pursuant to the Section 108 Loan Guarantee Program to finance costs related to the BluffWalk Center redevelopment project.

Purpose of Action:

- To conduct a public hearing to contract a debt in an amount not to exceed \$3.2 million in connection with the financing of costs related to the BluffWalk Center riverfront redevelopment project in the City.
- To adopt a resolution authorizing the City of Lynchburg to contract a debt in the principal amount not to exceed \$3.2 million in connection with the financing of costs related to the BluffWalk Center riverfront development project in the City.

Requested Action: Conduct public hearing and adopt the following resolutions:

Funding:	Source	Recurring	One-time	Totals
	Local*		N/A	
	Totals		N/A	

* Funding:

Prior Action: January 9, 2002: Finance and Planning Committee

Attachments: Resolution authorizing the City of Lynchburg to contract a debt in the principal amount not to exceed \$3.2 million in connection with the financing of costs related to the BluffWalk Center riverfront development project in the City.

Resolution:

- A. Conduct of a public hearing to contract a debt in an amount not to exceed \$3.2 million in connection with the financing of costs related to the BluffWalk Center riverfront redevelopment project in the City.
- B. Consideration of the attached resolution to authorize City of Lynchburg to contract a debt in the principal amount not to exceed \$3.2 million in connection with the financing of costs related to the BluffWalk Center riverfront development project in the City.

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Other Information:

A component of the financing for the BluffWalk Center riverfront development project is \$3.2 million from the United States Department of Housing and Urban Development (HUD) Section 108 Loan Guarantee Program. The City, as the borrower, must guarantee the loan with HUD. In connection with the guarantee of the Loan by the City, the City is required to deliver a Contract for Loan Guarantee Assistance under Section 108 of the Housing and Community Development Act of 1974 and a Promissory Note in the principal amount of not to exceed \$3.2 million to HUD. The City will simultaneously also loan a like amount to Riverfront Development Limited Liability Corporation who is

developing the project. In order to comply with the Commonwealth of Virginia Public Finance Act the City must conduct a public hearing and adopt an authorizing resolution to enter into the various loan agreements.

In accordance with the provisions of the Loan Guarantee Contract, the City will pledge as security for the Loan and Promissory Note Community Development Block Grant funds and its secondary equity interest in the value of the in the \$7.1 million appraised value once the components are in operation. The City is not pledging its full faith and credit behind the loan nor will this indebtedness affect the general obligation debt criteria for the City.

A RESOLUTION AUTHORIZING THE CITY OF LYNCHBURG, VIRGINIA, TO CONTRACT A DEBT IN THE PRINCIPAL AMOUNT OF NOT TO EXCEED THREE MILLION TWO HUNDRED THOUSAND DOLLARS (\$3,200,000) IN CONNECTION WITH THE FINANCING OF COSTS RELATED TO THE BLUFFWALK CENTER RIVERFRONT DEVELOPMENT PROJECT IN THE CITY

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF LYNCHBURG, VIRGINIA:

SECTION 1. Findings and Determinations. The Council of the City of Lynchburg, Virginia (the "City"), hereby finds and determines as follows:

(a) At the request of Riverfront Development Limited Liability Corporation ("RDLLC"), the Council has previously authorized the City to prepare and to submit to the United States Department of Housing and Urban Development ("HUD") an application for an Economic Development Initiative grant in the amount of \$800,000 and an application for a guarantee of a loan (the "Loan") by the City, as Borrower, in the amount of \$3,200,000 pursuant to the Section 108 Loan Guarantee Program to finance costs related to the BluffWalk Center riverfront redevelopment project in the City (the "Project"), which is being developed by RRLLC.

(b) In connection with the guarantee of the Loan by the City in the amount of \$3,200,000 pursuant to the Section 108 Loan Guarantee Program, the City, as Borrower, will be required to execute and deliver a Contract for Loan Guarantee Assistance Under Section 108 of the Housing and Community Development Act of 1974, As Amended, 42 U.S.C. §5308 (the "Loan Guarantee Contract"), by and between the City, as Borrower, and the Secretary of Housing and Urban Development (the "HUD Secretary"), as guarantor of the Loan and a Promissory Note in the principal amount of not to exceed \$3,200,000 to be executed and delivered by the City (the "Promissory Note") evidencing the Loan.

(c) In accordance with the provisions of the Loan Guarantee Contract and the Promissory Note, the City will pledge as security for the payment of the principal of and interest on the Loan and the Promissory Note (i) all allocations or grants which have been made or for which the City, as Borrower, may become eligible under Section 106 of the Community Development Act of 1974 (the "Act"), also known as Community Development Block Grants, as well as any grants which are or may become available to the City, as Borrower, pursuant to Section 108(q) of the Act, also known as Economic Development grants; (ii) program income directly generated from the use of Guaranteed Loan Funds (as such term is defined in the Loan Guarantee Contract); (iii) other security as described in paragraph 15 of the Loan Guarantee

Contract; (iv) all proceeds (including insurance and condemnation proceeds) from any of the foregoing; and (v) all funds or investments in the accounts established pursuant to paragraphs 1 and 6 of the Loan Guarantee Contract.

(d) Notwithstanding any other provisions of the Loan Guarantee Contract, the Fiscal Agency/Trust Agreements (as defined in the Loan Guarantee Contract) or the Promissory Note, any recovery against the City, as Borrower, for any liability for amounts due pursuant to the Loan Guarantee Contract, the Fiscal Agency/Trust Agreements or the Promissory Note will be limited to the sources of security pledged in paragraph 5 or any Special Conditions of the Loan Guarantee Contract, and neither the general credit nor the taxing power of the City, as Borrower, or of the Commonwealth of Virginia, will be pledged for any payment due under the Loan Guarantee Contract, the Fiscal Agency/Trust Agreements or the Promissory Note.

(e) In the judgment of the Council, it is necessary and expedient to authorize the City to contract a debt in the principal amount of not to exceed Three Million Two Hundred Thousand Dollars (\$3,200,000) (such debt being referred to herein as the "Loan") in connection with the financing of costs related to the Project and to authorize the City to execute and deliver the Loan Guarantee Contract to the HUD Secretary and to execute and deliver the Fiscal Agency/Trust Agreements and the Promissory Note evidencing the Loan.

SECTION 2. Authorization of Loan. Pursuant to Chapter 26 of Title 15.2 of the Code of Virginia, 1950 (the same being the Public Finance Act of 1991), for the purpose of financing costs related to the BluffWalk Center riverfront redevelopment project in the City, the City is hereby authorized to contract a debt in the amount of not to exceed Three Million Two Hundred Thousand Dollars (\$3,200,000) (such debt being referred to herein as the "Loan"). The Loan shall be evidenced by a promissory note in the principal amount of not to exceed \$3,200,000 to be executed and delivered by the City (the "Promissory Note"), and the Loan and the Promissory Note shall be guaranteed by the HUD Secretary, as guarantor pursuant to the Section 108 Loan Guarantee Program and a Contract for Loan Guarantee Assistance Under Section 108 of the Housing and Community Development Act of 1974, As Amended, 42 U.S.C. §5308 (the "Loan Guarantee Contract"), by and between the City, as Borrower, and the HUD Secretary, as guarantor of the Loan and the Promissory Note evidencing the Loan. The Director of Financial Services of the City is hereby authorized to determine the principal amount of the Loan, the rate of interest to be borne by the Loan and the dates on which such interest shall be payable, the dates on which principal of the Loan shall be payable and the principal of the Loan payable on each such principal amount date, the provisions for the redemption or prepayment of the Loan at the option of the City and the premium, if any, payable upon the redemption or prepayment of the Loan; *provided, however*, (i) in no event shall the rate of interest borne by the Loan exceed six per centum (6%) per annum; (ii) in no event shall the final installment of principal of the Loan be due and payable later than forty (40) years after the date of the Loan; and (iii) in no event shall the premium payable upon the redemption or prepayment of the Loan exceed three per centum (3%).

SECTION 3. Authorization of Execution and Delivery of Promissory Note. The Promissory Note shall be in such form, consistent with the provisions of this Resolution, as shall be determined by the Director of Financial Services of the City, and shall be executed, for and on

behalf of the City, by the manual signature of the Mayor of the City and shall have an impression of the corporate seal of the City impressed thereon, attested by the manual signature of the Clerk of Council of the City.

SECTION 4. Authorization of Execution and Delivery of Loan Guarantee Contract and the Fiscal Agency/Trust Agreements. The Loan Guarantee Contract and the Fiscal Agency/Trust Agreements (as defined in the Loan Guarantee Contract) shall be in such form, consistent with the provisions of this Resolution, as shall be approved by the Director of Financial Services of the City, and the City Manager, the Clerk of Council and other officials of the City are hereby authorized to execute and deliver the Loan Guarantee Contract and the Fiscal Agency/Trust Agreements on behalf of the City.

SECTION 5. Security for Loan and Promissory Note. In accordance with the provisions of the Loan Guarantee Contract and the Promissory Note, the City hereby pledges as security for the payment of the principal of and interest on the Loan and the Promissory Note (i) all allocations or grants which have been made or for which the City, as Borrower, may become eligible under Section 106 of the Community Development Act of 1974 (the "Act"), also known as Community Development Block Grants, as well as any grants which are or may become available to the City, as Borrower, pursuant to Section 108(q) of the Act, also known as Economic Development grants; (ii) program income directly generated from the use of Guaranteed Loan Funds (as such term is defined in the Loan Guarantee Contract); (iii) other security as described in paragraph 15 of the Loan Guarantee Contract; (iv) all proceeds (including insurance and condemnation proceeds) from any of the foregoing; and (v) all funds or investments in the accounts established pursuant to paragraphs 1 and 6 of the Loan Guarantee Contract. Notwithstanding any other provisions of the Loan Guarantee Contract, the Fiscal Agency/Trust Agreements (as defined in the Loan Guarantee Contract) or the Promissory Note, any recovery against the City, as Borrower, for any liability for amounts due pursuant to the Loan Guarantee Contract, the Fiscal Agency/Trust Agreements or the Promissory Note will be limited to the sources of security pledged in paragraph 5 or any Special Conditions of the Loan Guarantee Contract, and neither the general credit nor the taxing power of the City, as Borrower, or of the Commonwealth of Virginia, shall be pledged for any payment due under the Loan Guarantee Contract, the Fiscal Agency/Trust Agreements or the Promissory Note.

SECTION 6. Further Action. The City Manager, the Director of Financial Services, the Clerk of Council and other officials of the City, together or separately, are hereby authorized to execute from time to time such further documents or take any and all such further action as upon the advice of counsel to the City (including the City Attorney and Bond Counsel to the City) they or any of them shall deem necessary or desirable in order to carry out, give effect to and consummate the transactions contemplated by this Resolution and by the documents referred to in or approved by this Resolution.

SECTION 7. Filing of Resolution with Circuit Court. The City Attorney of the City is directed to file a copy of this Resolution, certified by the Clerk of Council of the City to be a true and correct copy hereof, with the Circuit Court of the City in accordance with Section 15.2-2607 of the Code of Virginia, 1950.

SECTION 8. Repeal of Conflicting Ordinances, Resolutions and Other Proceedings. All ordinances, resolutions and other proceedings in conflict herewith are, to the extent of such conflict, repealed.

SECTION 9. Effectiveness of Resolution. This Resolution shall take effect upon its adoption.

Adopted:

Certified: _____
Clerk of Council

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